

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
NEW YORK BRANCH OFFICE**

**NEW YORK PARTY SHUTTLE, LLC, d/b/a
ONBOARD TOURS, WASHINGTON DC PARTY
SHUTTLE, LLC d/b/a ONBOARD TOURS,
ONBOARD LAS VEGAS TOURS, LLC, d/b/a ONBOARD
TOURS, NYC GUIDED TOURS, LLC, and
PARTY SHUTTLE TOURS, LLC, a Single Employer**

Case 2-CA-073340

and

FRED PFLANTZER, an individual

**ORDER GRANTING GENERAL COUNSEL
MOTION TO AMEND THE CAPTION AND PARAGRAPH
SIX OF THE AMENDED COMPLIANCE SPECIFICATION**

The counsels for the General Counsel moved to amend the amended compliance specification upon the completion of their case-in-chief on May 31, 2018 to allege that Respondent New York Party Shuttle, LLC and Respondent NYC Guided Tours, LLC are, and have been at all material times, alter egos within the meaning of the Act. In addition, counsels for the General Counsel further allege in the motion that Respondent NYC Guided Tours, LLC is a *Golden State* successor to New York Party Shuttle, LLC (GC Exh. 1 (rr)).

The counsel for the Respondent filed an opposition to the motion and the counsels for the General Counsel submitted a reply to the opposition. Upon my review and for the reasons stated in the General Counsel's reply of June 13, the motion to amend the compliance specification is granted.

Section 102.17 of the Board Rules affords the Administrative Law Judge wide discretion to grant or deny a motion to amend and to consider (1) whether there was surprise or lack of notice, (2) whether there was a valid excuse for the delay in moving to amend, and (3) whether the matter was fully litigated. *Rogan Bros. Sanitation, Inc.*, 362 NLRB No. 61, slip op. at 3 n. 8 (2015). In *Rogan Bros.*, the General Counsel moved to amend the complaint to allege that the respondent employers were a single employer enterprise as well as alter egos during a 2 month adjournment of the proceedings. The Second Circuit agreed that the Administrative Law Judge did not abuse his discretion in finding no prejudice as the single employer theory was substantially similar to the alter ego theory. Similarly, there is no lack of notice as the counsels for the General Counsel immediately moved to amend the compliance specification once the

testimony of 611 (c) witnesses and evidence presented demonstrated an arguably prima facie case of the alter ego and successor theories.

Further, inasmuch as the Respondents have not begun its case-in-chief, and the trial is not expected to resume until June 26, the Respondent NYC Guided Tours, LLC will have sufficient time, notice and a full opportunity at the hearing to present evidence on the question of whether it is a successor responsible for remedying a predecessor's unfair labor practices. *Golden State Bottling Company v. National Labor Relations Board*, 414 U.S. 168 (1973). I also note that the counsels for the General Counsel have represented that they have fully litigated their case-in-chief and do not intend to present any new evidence or witnesses pursuant to their motion to amend and therefore, there would be no prejudicial delays in this proceeding.

/s/ Kenneth W. Chu

Kenneth W. Chu
Administrative Law Judge

June 14, 2018
New York, New York